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5 **\*E-FILED - 7/11/08\***  
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9 NOT FOR CITATION  
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12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
14

15 PAUL D. O'HAIRE, ) No. C 08-1917 RMW (PR)  
16 Plaintiff, ) ORDER OF DISMISSAL; ON  
17 v. ) PENDING MOTIONS  
18 NAPA STATE HOSPITAL, )  
19 Defendant. ) (Docket Nos. 2, 3, 8)  
20  
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22 Plaintiff, proceeding pro se, filed this civil rights action pursuant to 42 U.S.C.  
23 § 1983 against Napa State Hospital, where he is currently incarcerated. He has paid the  
24 filing fee. After reviewing the complaint pursuant to 28 U.S.C. § 1915A(a), the court will  
25 dismiss the instant complaint because plaintiff's claims are barred by the Eleventh  
26 Amendment.  
27

28 **DISCUSSION**

29 A. Standard of Review

30 Federal courts must engage in a preliminary screening of cases in which prisoners  
31 seek redress from a governmental entity or officer or employee of a governmental entity.  
32 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and  
33 dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief  
34

1 may be granted, or seek monetary relief from a defendant who is immune from such  
 2 relief. Id. at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. Balistreri v.  
 3 Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

4 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege that (1) a person  
 5 was acting under the color of state law, and (2) the person committed a violation of a right  
 6 secured by the Constitution or laws of the United States. West v. Atkins, 487 U.S. 42, 48  
 7 (1988).

8 B. Plaintiff's Claim

9 Plaintiff claims that defendant, the Napa State Hospital ("NSH"), violated his  
 10 constitutional with the terms and conditions for plaintiff's participation in polygraph  
 11 testing at the institution. The Eleventh Amendment bars from the federal courts suits  
 12 against a state by its own citizens, citizens of another state or citizens or subjects of any  
 13 foreign state. Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 237-38 (1985). This  
 14 Eleventh Amendment immunity also extends to suits against a state agency, such as a  
 15 state prisons and mental hospitals. See, e.g., id.; Allison v. California Adult Authority,  
 16 419 F.2d 822, 823 (9th Cir. 1969) (California Adult Authority and San Quentin Prison are  
 17 entitled to Eleventh Amendment immunity); Bennett v. California, 406 F.2d 36, 39 (9th  
 18 Cir. 1969) (California Adult Authority and California Dep't of Corrections are entitled to  
 19 Eleventh Amendment immunity). Here, plaintiff brings suit against NSH, a state entity.<sup>1</sup>  
 20 Consequently, his claims are barred by the Eleventh Amendment and will be dismissed.

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28 <sup>1</sup>Plaintiff concedes in footnote 1 of his "Request for Court Ordered Screening of the  
 Complaint" that NSH is a "state-component."

## CONCLUSION

Plaintiff's complaint is hereby DISMISSED for failure to state a cognizable claim for relief under 42 U.S.C. § 1983. In light of this dismissal, the motions for a preliminary and permanent injunction (docket no. 2) and to relate this case (docket no. 3) are DENIED. Plaintiff's motion for the court to screen his complaint (docket no. 8) is GRANTED.

The clerk shall terminate all pending motions and close the file.

IT IS SO ORDERED.

DATED: 7/7/08

Ronald M. Whyte  
RONALD M. WHYTE  
United States District Judge

**RONALD M. WHYTE**  
United States District Judge